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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,148	03/06/2002	Kumiko Naito	122.1496	5920
21171	7590	09/12/2006	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			CORRIELUS, JEAN M	
			ART UNIT	PAPER NUMBER
			2162	

DATE MAILED: 09/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,148

Applicant(s)

NAITO, KUMIKO

Examiner

Jean M. Corrielus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 10-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response June 27, 2006, in which claims 1-4 and 10-14 are presented for further examination.

Response to Arguments

2. Applicant's arguments with respect to claims ~~14~~- and 10-14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-4 and 10-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, the claimed feature of "***comparing means for automatically comparing the amount of said ingredient searched out by the ingredient amount searching means with remaining amounts of the previously used ingredients of the other menus corresponding to the sale unit searched by the sale unit searching means and outputting a result indicative thereof***" is not described in the specification to enable one having ordinary skill in the art to make and use the invention. The specification paragraph [0072] and [0073] compares the expected sales for every ingredient computed with the "the amount of the stock" in

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the stock-for-network-sale DB corresponding the predetermined merchandise. However, such cited portion of the specification does not include the use of *“comparing means for automatically comparing the amount of said ingredient searched out by the ingredient amount searching means with remaining amounts of the previously used ingredients of the other menus corresponding to the sale unit searched by the sale unit searching means and outputting a result indicative thereof”*.

The examiner finds that the cited portion of the Applicant disclosure does not reasonably convey that the inventor had possession of the subject matter of the amendment at the time of the filing of the application. Based on the analysis provided above and substantial evidence or reasoning, the examiner provided that one having ordinary skilled in the art would not recognize in the disclosure a description of the invention defined by the claims. The amended claims, which introduce elements or limitations “automatically comparing is not supported by the as-filed disclosure, which is violated the written description requirement. In re Rasmussen, 650 F.2d 1212, 211 USPQ 323 (CCPA 1981).

Applicant should duly note that the first paragraph of 35 U.S.C. 112 requires that the “specification shall contain a written description of the invention. Applicant should also note that the essential goal of the description of the invention requirement is to clearly convey the information that an applicant has invented the subject matter which is claimed; and to put the public in possession of what the applicant claims as the invention.” Furthermore, the written description requirement of the Patent Act promotes the progress of the useful arts by ensuring that patentees adequately describe their inventions in their patent specifications in exchange for the right to exclude others from practicing the invention for the duration of the patent's term.

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Indeed, the specification does not satisfy the written description requirement because the specification does not describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-4 and 10-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Iwase et al., (hereinafter “Iwase”) US Patent Application Publication no. 2002/0165803.

As to claims 1, 2, 3 and 4, Iwase discloses the claimed “means for receiving the menu information input through member terminals” for receiving a request from a user requesting information on a predetermined disk (page 2, paragraph [0013], lines 5-7); “menu storage means for storing the menu information and amounts of ingredients necessary to prepare each menu

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indicated in the menu information” means for storing a plurality of disk names and names of the ingredients necessary for making each dish and recipe for each dish (page 2, paragraph [0013], lines 13-16); “ingredient amount searching means for searching out the ingredients and the amounts thereof, from the menu storage means, corresponding to said menu information including previously used ingredients of other menus” (page 2, paragraph [0017], lines 18-27); “sale unit storage means for storing a sale unit for every ingredient, the sale unit of each ingredient being stored in association with the stored menu information including previously used ingredients of the menus” storing the names of the ingredient in the ingredient table, by having stored the ingredient in the ingredient table, the previously used ingredient is also stored in the table for later use (col.6, paragraph [0105] and [0107]). Applicant should duly note that the present invention is directed to obtain menus (new dishes) using remaining ingredients from the previous menu. However, the claimed is directed to such a feature. In addition, Iwase discloses the claimed “sale unit searching means for searching out the sale unit, from the sale unit storage means, corresponding to said ingredient searched out by the ingredient amount searching means” searching the ingredient information database for a dish maker having necessary ingredient (page 2, paragraph [0017], lines 22-29); “comparing means for automatically comparing the amount of said ingredient searched out by the ingredient amount searching means with amounts of ingredients corresponding to the sale unit searched by the sale unit searching means and outputting a result indicative thereof” (page 2, paragraph [0013], lines 21-28); and “menu information searching means for searching out the menu information, from the menu storage means, including said ingredient in case that the result indicates that said amount of said

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ingredient is less than said sale unit” (page 6, paragraph [0111], [0112] and page 8, paragraph [0139]).

As to claims 10, 11 and 12, Iwase discloses the claimed “means for transmitting ingredients of a first menu and a number of distributions of the first menu to a user terminal”[0149]-0152]; and “a means for transmitting ingredients of a second menu inquired in relation to the first menu and a number of the inquiries of the second menu to the user terminal” [0149]-0152].

As to claim 13, Iwase discloses the claimed “storing menu information and amounts of ingredients necessary to prepare each menu indicated in the menu information and storing a sale unit for each ingredient of each menu” (col.6, paragraph [0105] and [0107]; page 2, paragraph [0017], lines 22-29); and “outputting data of an ingredient, a sale unit and an amount of the ingredient upon a menu search, where the amount of the ingredient indicated as a result of the menu search is compared with amounts of ingredients corresponding to the indicated sale unit and an indication is provided when the ingredient indicated is less than the sale unit, the sale unit of each ingredient being stored in association with the stored menu information including substantially similar ingredients of the menus” (page 2, paragraph [0013], lines 21-28; page 6, paragraph [0111], [0112] and page 8, paragraph [0139]). Applicant should duly note that the present invention is directed to obtain menus (new dishes) using remaining ingredients from the previous menu.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 14 is rejected under 35 U.S.C. 102(e) as being anticipated by Kolawa et al., (hereinafter “Kolawa”) US Patent no. 6,370,513.

As to claim 14, Kolawa discloses the claimed “storing a first successful sale coefficient representing a probability of purchasing ingredients of a first menu and a second successful sale coefficient representing probability of purchasing ingredients of a second menu inquired in relation to the first menu, the sale unit of each ingredient being stored in association with the stored menu information including substantially similar ingredients of the menus” (col.3, lines 20-32; col.10, lines 7-41; col.11, lines 4-50; col.16, lines 20-52; col.17, lines 20-34, lines 58-63; col.18, lines 10-44; col.20, lines 7-25, lines 40-64; col.21, lines 31-65); “computing expected sales of the ingredients of the first menu based on the ingredients of the first menu, a number of distributions of the first menu, and the successful sale coefficients of the first menu” (col.3, lines 20-32; col.10, lines 7-41; col.11, lines 4-50; col.16, lines 20-52; col.17, lines 20-34, lines 58-63; col.18, lines 10-44; col.20, lines 7-25, lines 40-64; col.21, lines 31-65); “computing the expected sales of the ingredients of the second menu based on the ingredients of the second menu, a number of inquiries of the second menu, and the successful sale coefficients of the second

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menu”(col.3, lines 20-32; col.10, lines 7-41; col.11, lines 4-50; col.16, lines 20-52; col.17, lines 20-34, lines 58-63; col.18, lines 10-44; col.20, lines 7-25, lines 40-64; col.21, lines 31-65).

Applicant should duly note that the present invention is directed to obtain menus (new dishes) using remaining ingredients from the previous menu. However, the claimed is directed to such a feature.

Conclusion

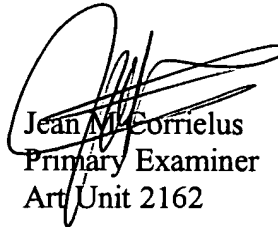
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean M. Corrielus whose telephone number is (571) 272-4032. The examiner can normally be reached on 10 hours shift.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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Jean M. Corielus
Primary Examiner
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September 7, 2006